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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,124

06/23/2006

Ho Cheol Kwon

8736.094.00

1413

30827

7590

03/05/2009

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EXAMINER

KING, ANITA M

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

03/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,124	Applicant(s) KWON ET AL.	
	Examiner Anita M. King	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 12-14, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 8, 11, 15, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/23/06; 8/12/08; 12/16/08</u> . | 6) <input type="checkbox"/> Other: _____ |

This is the first office action for application number 10/584,124, Automatic Level Controlling Apparatus, filed on June 23, 2006.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "115" in Fig. 2 and "161" in Fig. 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the term "rim-shaped strip" in line 2 of claim 2 is not provided for in the specification.

Claim Objections

Claim 9 is objected to because of the following informality: "friction" in line 2 should be changed to --frictional--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 14 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for at least one hook step extending downward from a bottom of the piston, does not reasonably provide enablement for at least one hook step extending upward from a bottom of the piston. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The specification discloses on page 12, that the piston 140 is provided at a bottom with a hook step 143 extending from an edge to a center and the drawings, i.e., Fig. 4, show that the hook step 143 extends downwardly from the bottom of the piston. No where in the specification or drawings is there in evidence of the hook step extending upward from a bottom of the piston.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the lower portion" bridging lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 9, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,243,565 to Kimball et al., hereinafter, Kimball. Kimball discloses an automatic level controlling apparatus (Fig. 4) for supporting an appliance, comprising: a hollow leg body (64); a piston (65) inserted in the hollow leg body; a spring (68) seated on an upper portion of the piston; a cap (66b) disposed on an upper portion of the piston to support an upper portion of the spring; a frictional member (70) disposed around the piston; a piston rod (69) coupled to the piston and supported on a floor; wherein the frictional member is formed in a rim-shaped strip; wherein a lower portion of the leg body is supported on the appliance (Fig. 1); wherein the cap is fixed on the leg body; wherein the piston rod and the piston are coupled to each other not to relatively rotate; wherein the piston is provided at an outer surface with a seating groove (formed

Art Unit: 3632

by 67 & 73) in which the frictional member is disposed; wherein a relative rotation locking unit (72) is formed between the piston and the leg body; wherein the relative rotation locking unit is formed on a lower portion of the piston; and wherein a space for receiving the spring is formed below the cap.

Claims 1, 3, 5-7, 13, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,520,366 to Kirby. Kirby discloses an automatic level controlling apparatus (Fig. 11) for supporting an appliance, comprising: a hollow leg body (132); a piston (138) inserted in the hollow leg body; a spring (136) seated on an upper portion of the piston; a cap (135) disposed on an upper portion of the piston to support an upper portion of the spring; a frictional member (liquid, Col. 12, line 73ff) disposed around the piston; a piston rod (130) coupled to the piston and supported on a floor; wherein a lower portion of the leg body is supported on the appliance; wherein the piston rod is provided at an outer surface with a tightening portion (134) supporting the appliance upward; wherein the cap is fixed to the leg body; wherein the piston rod and the piston are coupled to each other not to relatively rotate; and wherein a space for receiving the spring is formed below the cap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball in view of U.S. Patent 2,852,883 to Walsh. Kimball discloses the claimed invention except for the limitation of the frictional member being formed of felt. Walsh teaches an automatic controlling apparatus having a hollow leg body (12), a spring (40) and a washer (32) serving as a frictional member and being formed of felt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the frictional material of the member in Kimball to have been felt as taught by Walsh for the purpose of providing an alternative material for friction and since such a modification would have merely involved substituting one well-known material for another based on the material's suitability for the intended use, which would not have yielded any unpredictable results.

Allowable Subject Matter

Claims 8, 11, 15, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 2,775,849 to Ingram; U.S. Patent 2,795,892 to Lautenbacher et al.; U.S. Patent 3,459,395 to Scotto; U.S. Patent Application Publication 2007/0023591 to Kwon et al., all disclose various types of automatic level controlling devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anita M. King/
Primary Examiner, Art Unit 3632

March 5, 2009